

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH BIVINS, a/k/a
JOSEPH BERNARD BIVENS,

No. C 07-5643 MHP (pr)

ORDER

Petitioner,

v.

M. C. KRAMER, warden,

Respondent.

This is the fifth habeas action filed by petitioner to challenge his 1975 conviction. The court dismissed this action without prejudice to petitioner filing a new habeas action if he ever obtained permission from the court of appeals to file a second or successive petition. This court later denied a certificate of appealability, as did the U.S. Court of Appeals for the Ninth Circuit. More than a year later, petitioner attempted to take a second appeal. The Ninth Circuit has dismissed that appeal. Petitioner's motion for leave to proceed in forma pauperis on that second appeal (docket # 20) is DENIED because the appeal is not taken in good faith. See 28 U.S.C. § 1915(a)(3).

IT IS SO ORDERED.

DATED: November 22, 2010


Marilyn Hall Patel
United States District Judge